

REMARKS**Rejections Under 35 U.S.C. § 102(b)**

Claims 15, 28, 30-32, and 34-35 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hoffman (U.S. Pat. No. 3,592,161). The Examiner asserts that the device in Hoffman teaches a dispensing system including the features of the claimed invention. Applicants respectfully disagree with the Examiner's interpretation of the Hoffman reference, and the rejection of claims 15, 28, 30-32, and 34-35 is respectfully traversed.

Hoffman does not disclose each and every element of the claims. Claims 15, 28, 30-32, and 34-35 all recite a dispenser and wet wipes, which together have a dispensing force such that the tensile strength or detach strength of the wet wipes is at least twice that of the dispensing force. Furthermore, claims 30-32 and 34-35 recite wet wipes that include perforated sheets. Hoffman does not disclose a wet wipes dispensing system with a dispensing force, nor does Hoffman disclose wet wipes having a tensile strength or detach strength which is at least twice that of the dispensing force and having perforations.

Although the Examiner asserts that these features are taught in Hoffman, the Office Action makes no correlation between these features and the actual disclosure of Hoffman. Not only does Hoffman fail to disclose these claim elements, but there is nothing in Hoffman, nor has the Examiner asserted that there is anything in Hoffman, that inherently discloses or that would teach or suggest these claim elements.

Moreover, in the fourth paragraph on page three of the current Office Action, the Examiner acknowledges that "Hoffman does not mention the specific strengths involved with the wet wipes." Indeed, Hoffman does not mention any strengths at all, much less their relative magnitudes. The instant action also tacitly acknowledges that Hoffman does not teach perforations in the wet wipes, which are included in the dispensing system, in that page 4 asserts that perforations are "old and well known."

MPEP § 2131, quoting *Verdegall Bros. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed.Cir. 1987) states that a "claim is anticipated only if each and every element as set

forth in the claims is found, either expressly or inherently described, in a single prior art reference." The Examiner has failed to put forth a reference that teaches each and every claim element, either expressly or inherently.

Hoffman does not disclose each and every element of the claims, nor has the Examiner shown that Hoffman inherently discloses any of the claim elements. Accordingly, a proper *prima facie* case of anticipation of claims 15, 28, 30-32, and 34-35 by Hoffman has not been made, and as such, Applicants respectfully request the Examiner to withdraw this rejection.

Rejections under 35 U.S.C. § 103(a)

I. Claims 16-27 and 36-45 are not obvious over Hoffman

Claims 16-27 and 36-45 have been rejected under 35 U.S.C. § 103(a) as being obvious over Hoffman. The Examiner asserts that Hoffman discloses the dispenser as recited in independent claims 15 and 31, and that the properties of the wet wipes recited in claims 16-27 and 36-45 would have been an obvious matter of design choice, routine experimentation and optimization. Moreover, the Examiner asserts that while Hoffman does not mention the specific strengths involved with the wet wipes, it would have been an obvious matter of design choice to dimension the wet wipes of Hoffman as specified in each of the claims. The rejection of the claims of Hoffman is respectfully traversed, as Hoffman does not teach or suggest each and every element of the claimed invention.

Claims 16-27 and 39-45 recite specific strengths related to the dispensing system. These strengths include detach strength, peel strength, tensile strength and their relation to dispensing forces. Claims 36-38 further recite a wet wipe roll including perforations. In contrast, Hoffman does not teach or suggest a dispensing system with a wet wipe web having a tensile or detach strength at least twice that of the dispensing force. The Examiner has not set forth any characterizations of Hoffman that would provide for such strength relationships. Instead, the Examiner merely asserts that it would have been an obvious matter of design choice to include the claimed tensile strengths and wet wipe dimensions. However, such an assertion is not supported by the record because the Examiner has failed to provide any basis for obviousness other than the Examiner's own assertions.

The conclusory statements presented regarding obvious design choices of one skilled in the art are insufficient to establish a *prima facie* case of obviousness. The Examiner has failed to address Applicants arguments regarding this issue in the prior request for consideration, filed March 21, 2003 [Paper No. 15]. In that response Applicants pointed out that the MPEP 2143.01 states that, with reference to *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993):

A statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art" at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is **not sufficient** to establish a *prima facie* case of obviousness without some **objective reason to combine** the teachings of the references. [Bold emphasis added]

The Examiner has not yet addressed this policy of the USPTO and has not yet provided any evidence of a motivation or suggestion to modify the reference, either from statements in the references themselves or from other documentary evidence on the record. Thus, the conclusory statement of obviousness "to one of ordinary skill in the art" would be insufficient to establish a *prima facie* case of obviousness under 35 U.S.C. § 103, even if the applied references disclosed each and every element of the claims. Therefore, Applicants respectfully request the Examiner to withdraw this rejection.

II. **Claims 29 and 33 are not obvious over Hoffman in combination with Mitchell**

Claims 29 and 33 were rejected under 35 U.S.C. § 103(a) as being obvious over Mitchell (U.S. Pat. No. 5,620,148) in view of Hoffman. The Examiner asserts that it would be obvious to combine the dispenser of Hoffman with the coreless roll of Mitchell because more product can be provided in the space that would otherwise have been occupied by the core. The rejection of claims 29 and 33 are respectfully traversed.

The combination of Hoffman and Mitchell, even if proper, would fail to provide all the elements of claims 29 and 33. As noted above, Hoffman does not teach a

dispensing system with a roll of wet wipes having a tensile strength or detach strength at least twice that of the dispensing force. Likewise, Mitchell does not teach or suggest, nor has the Examiner asserted that Mitchell teaches or suggests, a dispensing system with a roll of wet wipes having a tensile strength or detach strength at least twice that of the dispensing force. Accordingly, a *prima facie* case of obviousness over Hoffman in view of Mitchell has not been presented, as the references do not teach or suggest each and every element of the claims. Claims 29 and 33 are not obvious under 35 U.S.C. § 103 over Hoffman alone or in combination with Mitchell, and Applicants respectfully request this rejection be withdrawn.

CONCLUSIONS

In conclusion, all of the grounds raised in the present Office Action for rejecting the application are believed to be overcome or rendered moot based on the remarks above. Thus, it is respectfully submitted that all of the presently presented claims are in form for allowance, and such action is requested in due course. Should the Examiner feel a discussion would expedite the prosecution of this application, the Examiner is kindly invited to contact the undersigned.

Also submitted at this time is a Petition for Extension of Time for one (1) month.

Respectfully submitted,

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